

THE NEWS OF NORFOLK ON PAGES TWO, THREE FIVE AND SIX.

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COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

GREENSBORO V. WILLIAMS.
Supreme Court of North Carolina.
March 14, 1899.

ONE WHO DELIVERS AN ARTICLE ALREADY SOLD AND COLLECTS THE PRICE, OR WHO SELLS WITHOUT TRAVELING ABOUT, IS NOT A PEDDLER OR ITINERANT MERCHANT.

This was a criminal proceeding instituted by the city of Greensboro against the defendant upon the charge of violating its charter and ordinances against "peddlers and itinerant merchants." On the trial the jury found a special verdict, as follows: "That on the 16th day of June, 1898, R. J. Williams did sell a picture frame and picture in the city of Greensboro, N. C., without having any license to sell the same from the said city. That some time prior thereto an agent of the Chicago Portrait Company made an executory contract with Mrs. J. E. De Lorme to furnish her with a portrait and frame of the manufacture of the Chicago Portrait Company, doing business in the city of Chicago, State of Illinois, to be subject to her approval, and any executory contract made by her to purchase not to be binding, unless she afterwards approved of the frame, when delivered to her. That, in pursuance of the executory contract so made, the Chicago Portrait Company shipped to the city of Greensboro, N. C., several pictures and several frames in bulk, whereupon the defendant, R. J. Williams, acting for the Chicago Portrait Company, broke the bulk of the original package, consigned to the Chicago Portrait Company, Greensboro, N. C., and placed in pictures in the frames, and sold and delivered one to Mrs. J. E. De Lorme as aforesaid, and collected for the same, in pursuance of the executory contract before alluded to. That section 67 of the charter of Greensboro, N. C., is as follows: 'That, in addition to the subjects listed for taxation, the aldermen may levy a tax upon the following subjects, namely: (d) Upon all itinerant merchants or peddlers, vending or offering to vend, in the city, a license tax not exceeding fifty dollars a year, except such only as sell books, charts, or maps or wares of their own manufacture, but not excepting vendors of medicine by whomsoever manufactured; not more than one person shall peddle under a single license.' That the following is an ordinance duly passed by the board of aldermen under and by virtue of the foregoing section of said charter: 'Be it ordained by the board of aldermen of the city of Greensboro, that all itinerant merchants or peddlers, except such as sell books, charts, or maps, whether sold by auctioneers or otherwise, and except further goods of their own manufacture, but not excepting medicines by whomsoever manufactured, offering for same goods by sample or otherwise at retail in the town of Greensboro, shall pay a license tax of fifty dollars per year.' Upon this special verdict, the court being of opinion that the defendant was guilty, the verdict was so entered, and the defendant sentenced to the penitentiary for one year.

The court says:

The only question presented by the special verdict is as to whether the defendant was an "itinerant merchant or peddler." "Peddler" is defined in all the leading lexicons, and in many judicial decisions, but about the strongest and most favorable definition for the plaintiff that we find is that given in Range Co. v. Carver, 13 N. C. 334. "Hawkers: Those deceitful fellows who went from place to place, buying and selling; and the appellation seems to grow from their uncertain wanderings, like persons that with hawks seek their game where they can find it." "Hawkers, peddlers and petty shopmen: Persons traveling from town to town with goods and merchandise." This quotation is from the opinion of Justice Gray in Enert v. State, 156 U. S. 369. And even under this definition we cannot hold that the special verdict makes the defendant a peddler. Nor does it constitute him an "itinerant merchant"—a traveling merchant—if there is a difference between a peddler and an "itinerant merchant." There is no finding—not even a suggestion—that he traveled about to sell pictures. Indeed, this idea is negatived when it was found that the picture was sold before it was sent to him, and he only delivered it, and received the price agreed upon beforehand. It seems to us that, in the language of the late Chief Justice Pearson, the plaintiff has "gotten the wrong sow by the ear." Reversed.

CARTER V. STATE.
Supreme Court of Georgia.
February 2, 1899.

A FREIGHT CAR BODY PLACED UPON PERMANENT POSTS AND USED AS A FREIGHT WAREHOUSE, IS A "HOUSE" WITHIN THE MEANING OF SECTION 136 OF THE PENAL CODE, AND THE BURNING OF SAID STRUCTURE IS ARSON.

Carter was convicted of arson and appealed. The court says:

The indictment charged the willful and malicious burning of "a certain freight warehouse," the property of the Southern Railway Company, "the same being then and there an out-house." The next question for determination is whether or not the structure burned was a "house," within the meaning of section 136 of the Penal Code, defining the offense of arson. The evidence shows that the body of a freight car had been taken off the wheels, and

placed near the railway track at a station, that it was supported upon permanent posts, and that a platform, to be used in transferring freights to and from the car body, had been attached to the same. It further appeared that the structure thus located was used as "a freight warehouse" by the railway company, in precisely the same manner as if it had been an ordinary warehouse built for this identical purpose. In view of these facts, we have no difficulty in holding that the structure in question was a "house," and accordingly we approve the instruction to the jury, that the structure with which we are now dealing was not in shape like an ordinary house, or that a portion of the same had been formerly used as a movable car, does not prevent it from being within legal contemplation, a house, and having all the elements of permanency, and being adapted to the uses for which a warehouse is suitable, we see no reason why it should not be treated as a structure coming within the protection of the statute above cited.

As well have been observed, the indictment alleged that this structure was an "out-house." There was no evidence showing that the Southern Railway Company had or owned any other building at this station; and counsel for the accused thereupon insisted that the house in question could not, in legal contemplation, be an "out-house," and, accordingly, that there was a fatal variance between the allegations of the indictment and the proof. It is true that the word "out-house," primarily means a building adjacent to a dwelling house, and subservient thereto, but distinct from the mansion itself.

After careful consideration, however, we have reached the conclusion that the word "out-house," as used in sections 136, 141 and 142 of our Penal Code, is applicable to a structure not located within a city, town, or village, but intended to embrace a house of any description which is not a dwelling house. In Watt v. State, 61 Ga. 66, this court held that the willful and malicious burning of a country church was in the existing Code, which is the same as section 141 of the present Penal Code. The status of a railway warehouse, located elsewhere than in a city, town, or village, cannot be legally different from that of a country church similarly situated. That all houses other than dwelling houses, thus located, were intended to be regarded as "out-houses," seems manifest from the provisions of section 142 of the Penal Code, which declares that "setting fire to an out-house of another, as described in the preceding section, shall be punished," etc.; for, unless this meaning be given to the word "out-house" as used in section 142, we would have no penalty whatever for the offense of setting fire to a house of the kind described in the present indictment. The truth is, the prefix "out" was totally unnecessary in this connection, except for the exclusive purpose of distinguishing dwelling houses from other houses; but the use thereof should not, we think, be given the effect of defeating the legislative will, which clearly was to include buildings other than those which would ordinarily be understood as falling within the class designated by the word "out-house."

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DIVINE SERVICES SUNDAY.

METHODIST EPISCOPAL.
Cumberland, between Holt and Cove streets—Preaching by the pastor, Rev. H. H. Johnson, D. D., at 11 a. m. and 8 p. m. Morning subject, "Always the Same," evening, "A Revival Service."

Huntersville, Johnson avenue—Preaching by the pastor, Rev. Daniel T. Merritt, at 11 a. m. and 8 p. m. Morning subject, "The Gifts of the Holy Spirit," evening, "The Remedy for a Nation's Unrighteous Action." Sunday school at 9:30 a. m.

Trinity, corner of Mulby and Corneway avenues, Brambleton—Preaching by Rev. Paul Bradley, of South Norfolk, at 11 a. m. and by the pastor, Rev. Lloyd T. Williams, at 8 p. m. Subject, "The Divine Rule of Conduct."

Epworth, corner of Freemason and Boush streets—Preaching by the pastor, Rev. W. J. Young, D. D., at 11 a. m. and 8 p. m. Morning subject, "The Carnal Mind and the Spiritual Mind," evening, "An Old Gospel for the New Times."

McKendree, corner of Clay and Chalmers avenues, Brambleton—Preaching by the pastor, Rev. H. H. Bennett, at 11 a. m. and 8 p. m.

Centenary, corner of Boush and Queen streets—Preaching by the pastor, Rev. W. H. Edwards at 11 a. m. and 8 p. m.

Queen, corner of Pulaski and Queen streets—Preaching by the pastor, Rev. S. C. Hatcher, at 11 a. m. and 8 p. m. Revival services at night.

Lekies Memorial, corner of Camp avenue and Fort street, Atlantic City—Preaching by the pastor, Rev. W. T. Williams, at 11 a. m. and 8 p. m. Revival services at night.

Lambert's Point—Preaching by the pastor, Rev. George H. Spooner, at 11 a. m. and 8 p. m.

PRESBYTERIAN.
First Church, between Holt and Cove streets—Preaching by the pastor, Rev. Edward Mack, at 11 a. m. and 8 p. m. Sunday school at 9:30 a. m. Westminster League prayer meeting at 7:15 p. m.

Second, Freemason, west of Boush street—Preaching by the pastor, Rev. Dr. W. S. Lucy, at 11 a. m. and 8 p. m. Young people's prayer meeting at 7 p. m.

Colley Memorial, Atlantic City—Preaching by the pastor, Rev. C. W. Maxwell, at 11 a. m. and 8 p. m. Sunday school at 9:30 a. m.

Preaching in the new church, Park Place, by the pastor, Rev. G. W. Law-

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Allen's Foot-Ease, a powder for the feet. It cures painful, swollen, smarting, nervous feet and instantly takes the sting out of corns and bunions. It's the greatest comfort discovery of the age. Allen's Foot-Ease is a certain cure for new shoes that are tight, sore, itchy, and hot. It is a certain cure for itching, chafing and hot, tired, aching feet. Try it to-day. Sold by all druggists and shoe stores. By mail for 25c. In stamps. Trial package free. Address: ALLEN S. OLMSTED, Le Roy, N. Y.

son, at 11 a. m. and 8 p. m. Sunday school at 9:30 a. m.

Park Avenue, Brambleton—Preaching by the pastor, Rev. E. B. McCluer, at 11 a. m. and 8 p. m.

Lambert's Point—Preaching by the pastor, Rev. G. D. Gikerson, at 11 a. m. and 7:45 p. m.

BAPTIST CHURCHES.

Grace, corner of Princess Anne avenue and Church street—Preaching by the pastor, Rev. A. E. Owen, D. D., at 11 a. m. and 8 p. m.

Freemason, corner of Freemason and Bank streets—Preaching at 11 a. m. and 8 p. m.

Park Avenue, Brambleton—Preaching by the pastor, Rev. J. J. Hall, D. D., at 11 a. m. and 8 p. m.

First, corner of Freemason and Granby streets, Rev. E. B. Hatcher, pastor—Services at 11 a. m. and 8 p. m.

Spurgeon Memorial, Windsor avenue, Brambleton—Preaching by the pastor, Rev. L. R. Christie, at 11 a. m. and 7:45 p. m.

Central Avenue, Atlantic City Ward—Preaching by the pastor, Rev. E. E. Dudley, at 11 a. m. and 7:45 p. m.

Burrows Memorial, Lambert's Point—Preaching by the pastor, Rev. George W. Cox, at 11 a. m. and 7:45 p. m.

PROTESTANT EPISCOPAL.

Christ, corner of Freemason and Cumberland streets, Rev. Dr. C. E. Grammer, rector—Morning prayer and sermon at 11 a. m. Evening prayer, 5 p. m.

St. Paul's, Church and Cove streets, Rev. B. D. Tucker, rector—Services at 11 a. m. and evening prayer at 5 p. m.

St. Luke's, corner of Granby and Boush streets, Rev. A. S. Lloyd, rector—Services at 11 a. m. and 8 p. m.

St. Peter's, Brown avenue, Brambleton, Rev. C. E. Woodson, rector—Services at 11 a. m. and 7:45 p. m.

Emmanuel, Chapel, corner of Wide and Calvert streets, Rev. John H. Dickinson, curate—Services at 11 a. m. and 8 p. m.

CATHOLIC.

St. Mary's, corner of Chapel and Holt streets, Rev. John Doherty, pastor—Sunday: Early mass at 7 a. m.; children's mass at 9:30 a. m.; high mass at 11 a. m. Vespers and benediction of the blessed sacrament at 5 p. m.

Sacred Heart Church, corner of York and Dunmore streets, Rev. Father T. S. Wilson, pastor—Sunday: First mass, 7:30 a. m.; second mass, 11 a. m.; vespers at 5 p. m., followed by benediction of the blessed sacrament.

CHURCH OF CHRIST.

Freemason, between Bank and Brewster streets—Preaching by the pastor, Rev. W. F. Emith, at 11 a. m. and 8 p. m.

CHRISTIAN.

Memorial Temple, corner of Cook and Tuntall avenues, Brambleton, Rev. J. P. Barrett, D. D., pastor—Services at 11 a. m. and 8 p. m.

CHRISTIAN SCIENTIST.

First Church, Library building—Services at 11 a. m. and 8 p. m. Wednesday evening at 8 o'clock.

OTHER LOCAL ON PAGE 6.

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Major Dean, of Columbus, Ohio, says: "I wish to add to the number of certificates of the benefits derived from the Pyramid Pile Cure. I suffered from piles for forty years and from itching piles for twenty years and two boxes of Pyramid Pile Cure have effectually cured me."

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4 Thread, Real Maco, Double Sole, Spliced Selvedge, High Spliced Heel and Toe, 25 a single pair, 6 pairs for \$1.40, and a dozen for \$2.75. Lisle Thread at same price.

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Others, too, beyond these figures.

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843-Board of Health.....Office	898-Pruden & Spratley NCom. Merchants
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850-Baker & Son, H. H.....Attorneys	900-Royal Clear Store.....Brokers
851-Brown & Horner.....Saloon	901-Chaud West & Co., Main street
708-Bass & Co., E. C.....Brokers	902-Sale, Wilson W.....Residence
1004-Cohn, R. S.....Residence	903-Stoff Piano Co.....Granby st.
1005-Cohn, G. H.....Real Estate	904-Southern Silver Plate Works.....
1006-California Restaurant.....E. Main st.	905-Sanderson Fruit Co.....Bank street
72-California Wine House.....	906-Spindle & Co.....Main st.
.....Market Place	907-Shefsky, L.....Residence
1158-Charles, Dr. L. R.....Office	1159-Shedding's Pharmacy.....Church st.
878-Carroll, Charles H.....Residence	881-Sargent, W. H., Jr.....Attorney
633-Clark, Jos. M.....Residence	908-Steam Steam Dye Works.....Brown
891-City Directory.....Office	909-Tennis Construction Co.....Office
560-Duncan, H. F.....Residence	886-Vaughan & Simmons.....Insurance
83-Dwyer, R. O., Deputy Collector I. Rev	1001-Va. Dairy Lunch.....Store Room
1188-Daniel & Cooper.....Food Store	1002-Va. Dairy Lunch.....Office
91-Dickerson & Co., S. T.....Brokers	883-Westheimer, E.....Grocer
889-Davis & Co., H. C. J.....Brokers	884-Wingfield, Mrs. R. C. M.....Residence
211-Edwards, O. E.....Residence	922-West & Co., Claude.....
796-Edgemoor Bridge Co.....	886-Williams & Son, H. C.....Real Estate
.....J. W. Smith, Mgr.	919-Zachary & Burke.....Brokers
120-Elliott, R. B.....Residence	
852-Entress, R. B.....Cold Storage	
.....Warehouse	
897-Frank & Son, Samuel.....Clothing	
898-Frank, Samuel.....Residence	
899-Fruit Growers' Express Co., Office	
870-Hoffman & Bro., J. M.....Tobacco	
872-Hofarty, D. A.....Residence	
873-Hoheimer, J. D.....Residence	
894-Hoon & Co., A.....Lithographers	
895-H. L. Co.....Main street	
845-Judson, Leo.....Residence	
134-Jordan & Co., J. M.....Water street	
890-Land & Hancock, Butter and Cheese	
875-Lowenberg, D.....Residence	
876-Lewis & Co., J. W.....Brokers	
896-Levy, Moses.....Residence	
811-Morris, Jas.....Residence	
897-Merritt & Chapman Wrecking Co.	
898-Morris & Marshall.....Real Estate	
859-Monticello Grocery Co., Market Place	
810-Morris & Co., J. J.....Saloon	
862-N. & Car, H. R. Co.....Freight Dept.	
863-N. & C. R. Co.....Gen. Manager	
864-N. & C. R. Co.....Brokers	
878-National Dairy Co.....Commerce st.	
892-Norfolk Pressing Club.....Main st.	
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